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December 7, 1999

Daisy Crockron
Chief of Docketing Division
Public Utilities Commission of Ohio
180 East Broad Street
Columbus, Ohio 43215

Re: In the Matter of the Commission Review of the Regulatory Framework for
Competitive Telecommunications Service Under Chapter 4927, Revised
Code, Public Utilities Commission of Ohio, Case No. 99-563-TP-COI

Dear Ms. Crockron:

Copies of GTE North Incorporated's, GTE Wireless Incorporated's and GTE
Communications Corporation's Initial Comments filed in the above referenced case
have been served on the parties on the attached Service List. A Proof of Service is
enclosed.

If you have any questions, please contact me.

Very truly yours,

Shirley Halteman
Paralegal

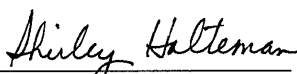
Enclosures

cc: Service List

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PROOF OF SERVICE

The undersigned certifies that copies of GTE North Incorporated's, GTE Wireless Incorporated's, and GTE Communications Corporation's initial comments in Case No. 99-563 - TP-COI, *In the Matter of the Review of the Regulatory Framework for Competitive Telecommunications Service Under Chapter 4927, Revised Code*, were served on the attached service list on December 7, 1999, via overnight delivery.



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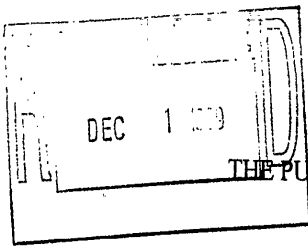
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BEFORE

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THE PUBLIC UTILITIES COMMISSION OF OHIO

PUCO

In the Matter of the Commission Review)
of the Regulatory Framework for Competitive) Case No. 99-563-TP-COI
Telecommunications Service Under Chapter)
4927, Revised Code)

Initial Comments of GTE

Introduction

GTE North Incorporated, GTE Wireless Incorporated and GTE Communications Corporation (collectively GTE) file these comments in response to the Commission's Entry dated October 28, 1999. These comments will address the Staff proposal to amend the existing competitive telecommunications service guidelines (563 rules). Staff has made numerous positive recommendations: enumerating services which should be deemed competitive, streamlining certain application processes, and giving proper emphasis to competitive services rather than competitive providers. However, GTE has concerns with certain aspects of its proposal, especially in the areas of rules enforcement and penalties.

GTE participated in the formulation of the comments filed by the Ohio Telecommunications Industry Association (OTIA) in this case and generally concurs with the comments contained therein.

In support of its filing, GTE makes the following observations of the Staff's proposal, following the same section-numbering scheme as that used by the Staff.

I. Purpose and Scope

GTE agrees with Staff's recommendation regarding the enumeration of services which should qualify as competitive telecommunications services (CTS). GTE also agrees that over time, it will be necessary to incorporate additional services to the list as the market and industry change. GTE has a number of comments regarding this section.

The first item in Staff's list of CTSs should be changed to reflect the inclusion of both prepaid and postpaid calling card services. The new item would read as follows:

1. 1+ INTEREXCHANGE, MESSAGE TOLL SERVICE, INCLUDING 10XXX, 1010XXX, AND PREPAID AND POSTPAID CALLING CARD SERVICE.

It appears to be inconsistent that prepaid cards would be included as a CTS but a postpaid card would not.

GTE also notes that the multiple listings of Centrex service (items 15, 16 and 20) is confusing. In addition, Staff should clarify exactly what is included and excluded from the list for Centrex type service. More specifically, GTE views the basic access line rate for Centrex, the Network Access Register (NAR) which is needed for the line to access the network, and the features used in the service as all being part of "Centrex service". An end user would not purchase the line from one provider and the NAR from another and the features from yet a third. Rather, the service would be provisioned in its entirety. As such, the line, the NAR and the features should all be included as CTSs.

Item 17 in Staff's proposed CTS list includes only two custom calling features. GTE recommends that this list be expanded to include the following: Call Forwarding Variable and Busy/No Answer, Caller ID Name and Number, Distinctive Ring, Special Call Forwarding, Three Way Calling, Call Blocking, Anonymous Call Block, Automatic

Call Return, Automatic Busy Redial, Call Waiting, Special Call Acceptance, Speed Dial 8 and Speed Dial 30, and VIP Alert.

GTE also recommends that Digital Channel Service be added to the list of CTSs. This service provides analog voice and DDS data services over T1 lines that interface with a customer's PBX or channel bank. Such service allows customers to reduce their voice and data costs by aggregating traffic over a single line.

Section I.C.3. does not contain a definitive timeframe on which the Commission must act on a waiver request, nor did Staff recommend any changes to this section. In a competitive environment, speed to market is a critical factor. If a CTS-provider has determined that a waiver of a certain Commission rule is required, time is of the essence. GTE recommends that the waiver application process be subject to an automatic approval -- 30 days is a reasonable timeframe. Otherwise, the Commission's administrative process could inadvertently become an impediment to competition.

Staff's proposal did not contain substantive changes to Section I.C.4. GTE recommends that this section be modified to reflect actual conditions in the market place. The "Me Too" waiver (MTW) states that the CTS-provider seeking a MTW must demonstrate that it is in an identical position as the original requestor of a waiver. The threshold for receiving a MTW should not be an "identical" position; rather, it should be "substantially identical". Typically, there is never an occasion when two different providers are in the "identical" position. If the criteria remain "identical", then the apparent flexibility of this rule will never be realized.

Staff also did not propose changes to Sections I.E.1. and 2., areas in which GTE recommends certain modifications. The proposed rules state that if the Commission

issues either a full suspension or a partial suspension of the 563 process, the Commission is not required to act on the suspension within a definitive timeframe. The proposed rules state the suspension will be in effect until such time as the Commission takes further action. As noted previously, time is of the essence in resolving the Commission's administrative issues with respect to competitive services. The rules should state the length of time the Commission has to act on either a full or partial suspension. GTE again recommends that 30 days is an acceptable timeframe.

GTE supports Staff's proposal to delete the requirement for wholesale cellular service providers to submit Federal Communications Commission Form 401, Schedule B, questions 27 and 37 to the Commission as noted in "old" Section I.E.2. This antenna location and engineering data is currently filed in FCC Form 601. As such, the Commission need not duplicate review of this information.

II. General Guidelines

GTE views the change in Section II.A.3. as one which will allow for increased speed of approval and less paperwork. This should be beneficial to CTS-providers and consumers alike.

GTE agrees with the Staff's recommendations in Section II.B. to place tariffs on a web site. This is a natural evolution as computer use and the internet become more and more prevalent. GTE would further recommend that CTS-providers who file informational tariffs with the Commission be allowed to do so electronically. The guidelines for electronic filings should mirror those currently in place with the FCC.

If the Commission determines that Section II.D.3.a. of the 563 rules does not apply to ILECs, then GTE disagrees with Staff's recommendation to remove the

reference to MTS. Under the Staff's proposal, GTE would be at a competitive disadvantage because its rates are lower than those of the competition. Thus, potential payphone locations would opt for the higher rated payphones, thereby increasing their commissions to the detriment of the consuming public. The difficulty an ILEC faces in raising rates for pay stations will only be exacerbated by the Staff's proposal. A similar argument holds for Section II.D.3.b. The difference is that the State of Ohio Department of Rehabilitation and Corrections is the pay phone "owner" but the ILEC is again hindered from paying higher commissions. Again, should the Commission determine that these proposed rules do not apply to ILECs, then GTE does not concur with the Staff's proposed changes in this section.

GTE next addresses the area of alternative operator services (AOS) in Section II.D. A brief overview of the service will be discussed, followed by specific recommendations to Staff's proposal.

The operator service provider industry is increasingly competitive. Customers are now more experienced with, and better-educated about, operator service providers. Interexchange carriers are using and promoting their own calling cards which allow their customers to directly access the carrier from any unblocked phone. Operator service providers also face increased competition from prepaid phone cards. Customers may purchase prepaid phone cards that can be used to make a call from any touch-tone phone. Prepaid phone cards typically charge a flat rate per minute regardless of distance and time of day. For many customers, these calling card options are attractive because customers save the operator service charges associated with a payphone call and the rates are easy to understand.

GTE does not believe that a rate cap for operator service providers is appropriate in a competitive marketplace. Notwithstanding competition's ability to drive prices down, GTE recognizes that rate caps could constrain possible abuse by operator service providers if their prices are not disciplined by the competitive market to the same extent as the prices of the interexchange carriers.

In Section II.D.3.d., alternative operation services' (AOS) surcharges are addressed. If AOS operator surcharge rate caps are to remain in effect, GTE recommends that they be calculated in a fashion similar to the rate caps established by the Michigan Public Service Commission. This method applies a factor of 300% to the state average rate for operator or toll service by providers of regulated toll service, in lieu of a set rate cap for operator services providers. The Michigan Public Service Commission establishes operator services maximum allowable rates annually, in December, by taking the operator services rates of AT&T, MCI, LCI (Qwest), Sprint, GTE North and Ameritech. Those rates are averaged and then multiplied by 300%, thus reaching the Michigan operator services maximum allowable rates.

In the competitive market of operator service providers, this method of establishing operator services rate caps will allow for greater pricing flexibility. Consequently, it will encourage competition and give customers a wider choice of operator service providers.

GTE recommends new Section II.D.4. be reworded to include a reference to specific customer agreements and individual case basis arrangements:

Terms and conditions of all discounts and promotions, WITH THE EXCEPTION OF AGREEMENTS BETWEEN THE PROVIDER AND A SPECIFIC END USER, must be identified in THE PROVIDER'S FILED price lists OR WEB SITE TARIFF.

In Section II.D.5., GTE generally agrees with the Staff's recommendations with three exceptions. First, more rationale should be given for the 10% discount. Second, the use of the term "non-TRS calls" is confusing. The Commission should provide more insight regarding the meaning of non-TRS calls. Third, the word "impairment" should be replaced with "disability". This is more consistent with long-standing terminology regarding this issue, dating back to the early-1990's. In 1991, the FCC requested the word "impairment" not be used to describe persons with hearing and speech disabilities. The word impairment is correctly used when describing a person who is blind or has a sight impairment.

In Section II.E., GTE recommends that a section be added to address instances in which a LEC CTS-provider has a contractual arrangement for a tariffed offering. GTE recommends that the following be added to Section II.E.1.:

LECs and end-users having contractual and individual case basis (ICB) arrangements addressing specific rates, terms, and/or conditions regarding services already offered under tariff should be reported to the Commission in a quarterly report. This report would describe each contract, the service offered and a summary of rates/terms/conditions. Detailed information (including cost support for ILEC CSAs) must be made available for Commission review upon request.

This would permit carriers to efficiently serve individual customer's needs while still making information available to the Commission if needed. It would also alleviate the burden of individual filings for every contract arrangement. In general, ICBs should not be part of a CTS-provider's tariff.

In addition, GTE suggests the Commission make provision for customer specific arrangements, which are appropriate when new technologies or facilities are being developed. A Custom Service Arrangement (CSA)-type offer should be permissible in the early, developmental stages of a new service and before it is necessary or feasible to

have a general tariff offer. CSA contracts should be filed by the provider with the Commission and become effective upon filing. Proprietary treatment is appropriate for all contractual arrangements, and requests should be processed expeditiously.

Staff's additional requirement in Section II.G. is overly burdensome. A CTS-provider that is also a NEC should not be required to keep its accounts according to the Uniform System of Accounts (USOA). Eliminating Staff's proposal would minimize the regulatory burden of seeking a waiver for the non-dominant competitive provider. In addition, the FCC does not require non-dominant providers to use the USOA.

Staff has also proposed an additional annual reporting requirement for new entrant carriers (NECs) in Section II.H. A CTS-provider that is a NEC or a NEC-provider is not rate of return regulated. CTS and NEC-providers should not be required to utilize the ILEC annual report format. This report requires the separation of expenses to the intrastate jurisdiction and shows the net income for intrastate operations. Such information is not a regulatory requirement as the Commission does not regulate the financial performance of these entities.

In the Staff's revised Section II.J., modifications are made to the affiliated transactions rules. GTE recommends that, in general, these rules should not be any more restrictive than those prescribed by federal law. The affiliate transaction rules should not apply to a NEC with a CTS-provider affiliate. Both the non-ILEC NEC and CTS-provider are non-dominant, non-rate of return regulated entities. As noted above, application of such rules to them goes well beyond the original intent of affiliate transaction rules. GTE also has several wording changes to the Staff's proposal in Section II.J., each of which is discussed below.

In Section II.J.2., the phrase "technical resources" should be changed to "telecommunications' technical resources" to emphasize the type of resource being provided to the affiliate. At the end of the section, reference should be made to the federal regulatory structure by adding the phrase "as prescribed by the Communications Act of 1934, as amended, and federal rules". This addition will tie the Ohio affiliate rules back to the federal structure.

In Section II.J.3., GTE again recommends emphasis be placed on "telecommunication service" rather than just "service". Reference should be made that such telecommunication service has been defined in the Communications Act of 1934, as amended.

A caveat should be reflected in Section II.J.6., noting exceptions contained in various FCC rules. GTE recommends the following phrase be added at the beginning of this section: "EXCEPT AS PERMITTED BY FEDERAL STATUTES AND RULES, the CTS-provider..."

GTE's final comment on Section II. is associated with Section II.K.2. GTE supports the removal of the affiliation standard that requires a separate set of accounting records to avoid CTS status. Given the competitiveness of the wireless marketplace, relaxation of the affiliation standard is warranted. GTE also endorses the staff's proposal to remove Section II.K.2.b. This section is unnecessary because cellular wholesale providers are already under a nondiscrimination obligation as provided by federal law, 47 U.S.C. 202. Federal law also requires cellular wholesale providers to permit unrestricted resale of their services. 47 CFR 20.12(b).

III. Registration Procedures for CTS-Providers

GTE has no specific comments on this section. Certain topics contained in this section are tangentially addressed in GTE's comments regarding Section II.

IV. Registration Procedures for Services to Qualify as a CTS

Section IV.B. describes the conditions which must be met for a new service to be classified as a competitive service by non-ILECs. Such a CTS-provider should not be required to make a filing to have a proposed service be classified as competitive. The fact that a competitive provider offers the service should be sufficient justification that the service is competitive. Similarly, a competitive provider that only offers CTS service, should not have to demonstrate indicators of market power to justify a qualifying CTS. None of the cited conditions is relevant for a pure competitive provider to justify the competitiveness of a service. The fact that a pure competitive provider offers the service, in and of itself demonstrates the service is competitive.

GTE recommends that Section IV.D. be deleted. The intent of Section IV. is to allow CTS-providers a relatively straightforward method for declaring a service as a CTS. The added requirement in Section IV.D. imposed only on large ILECs, unjustly discriminates against their ability to participate in the declaration process. Other means are available to ensure any perceived market dominance is mitigated via pricing at or above cost. Therefore, this particular section should be eliminated.

V. Registration Procedures for a Change in Operations

GTE recommends that Staff's proposed Section V.E.4. be clarified and made more specific. In this section, Staff proposes the Commission be given the ability to require, review and approve customer notices for certain services which are determined

by the Commission to present public policy ramifications. Staff's proposal must more explicitly clarify what types of services or instances present public policy ramifications.

VI. Code of Conduct

In general, GTE does not favor Staff's additional section in the 563 rules relating to a code of conduct. GTE questions whether such rules are necessary, in light of current business practices and prior Commission orders. If the Staff believes that "...it is appropriate for relaxed regulation to be in place for markets with effective competition" as noted in its comments, then there is no need for the additional burden put on CTS-providers. In addition, the ability to listen to live telephone solicitations and change company marketing materials opens the door for potential abuse and is a step backward into more regulation rather than less. Many of the objectives the Staff is attempting to achieve could be fulfilled without the intrusive intervention contemplated in this section. However, if the Commission adopts Staff's proposal for inclusion of a code of conduct section, GTE requests it be modified as described below.

In Section VI.B.1., the proposed rules state that if services are bundled the company must identify and explain any individual components and associated prices. A competitive provider which offers bundled services offers that bundle for a specific single price. The offered price is not necessarily the aggregate of the prices of the individual components. The provider can describe the individual components of the bundle but not necessarily the separate prices for the individual components. A customer would not be able to purchase the bundled services at the individual component prices. GTE recommends the individual service component requirement noted in this section be eliminated.

Regarding Section VI.B.2., GTE recommends two changes to Staff's proposal. First, the "welcome package" should be provided within 5 business days rather than 3. Three days is too short to process the customer's order and send out the confirmation package. Second, the name of the company representative who took the order should not be included in the written confirmation. For privacy and security reasons, such information should not be part of the welcome packet. The purpose of the confirmation letter and welcome package is to notify customers of the services they ordered and the associated prices, terms and conditions. The name of the representative who took the order is not relevant.

Section VI.B.7. should be modified to clarify the intent of the "reasonable probability" standard, which does not seem to be used as it is applied in Section 1345.03, Ohio Revised Code, the apparent model for the provision.

Section VI.B.11. should reference the FCC rules with respect to CPNI. As it currently stands, this particular item is rather nebulous. GTE would recommend that if this section remains part of the 563 rules, at a minimum item 11 should be changed and clarified to comport with the FCC rules on CPNI.

In Section VI.C.1., Staff proposes all CTS-providers be required to comply with the current MTSS that do not apply solely and specifically to LECs. In this docket, the Staff has included switchless resellers as a CTS-provider subject to the Commission oversight. Switchless resellers have not previously been subject to the Commission's jurisdiction. As noted in OTIA's comments, the Commission cannot legally subject this group to detailed regulation without complying with the Ohio rulemaking requirements.

VII. Enforcement

GTE concurs with the legal position taken by the OTIA regarding this section and recommends that the Commission reject Staff's proposal to add an enforcement section to the 563 rules. As eloquently expressed in the OTIA comments, GTE does not believe that Section 4927.03, Revised Code, allows the Commission latitude to impose monetary forfeitures based on judgments of Staff, except as authorized in existing Ohio statutes. Further, it is not appropriate for the Commission to deprive CTS-providers of the right to a hearing and final order of the Commission when the administrative action has such important consequences. Nor may the Commission allow Staff to take action against a CTS-provider without a final Commission order. The analogy to enforcement procedures against transporters of hazardous materials cited by Staff is totally inappropriate, as expressed by OTIA. The Commission clearly and specifically has a duty to enact rules necessary for protection of the public safety (See also Section 4905.06, Revised Code). Misbehavior by CTS-providers does not present this level of threat to public safety.

The Staff's approach as detailed in this section may do little to disincent the bad behavior it is intended to cure. In addition, since the services are competitive, it seems like the need for fines is mitigated. The market will determine the eventual winners and losers with the most serious fine reflected in the number of lost customers due to poor service or high rates, and not necessarily by sanctions or penalties levied by the Commission. GTE recommends that if fines are imposed, they should be done so only after due process. Fines should precede revocation of licenses to operate in the state.

Conclusion

GTE commends the Staff for its efforts in amending the 563 rules. GTE appreciates the opportunity to provide comments in this proceeding and reserves the right to file reply comments as noted in the Commission's Entry.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "W. H. Keating", is written over a horizontal line.

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